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REMARKS

Claims 83-89 and 106 have been amended and claims 107-111 have been added herein. Claims 83-93, 100-102, 106, and 107-111 will be pending in the application following entry of the above amendments.

The following remarks are responsive to the Office action dated April 6, 2005.

Claim 107

Claim 107 is directed to a disposable absorbent article having a longitudinal axis, a lateral axis, and a lateral centerline generally defining longitudinal front and back regions of the article. The article has a front end and a back end and comprises:

- a liner adapted for contiguous relationship with a wearer's body;

- an outer cover in generally opposed relationship with the liner, the outer cover having a length and a width and being stretchable along substantially the entire length of the outer cover;

- the article having a surface area defined at least in part by said outer cover; and

- an absorbent core disposed between the liner and the outer cover and having a front edge, a back edge, and a surface area which is less than about 50% of the surface area of the article, the front edge of the absorbent core being in a closer proximity to the front end of the article than the back edge of the absorbent core is to the back end of the article, at least a portion of the absorbent core being bonded to said outer cover.

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New claim 107 is submitted to be unanticipated by and patentable over the references of record, and in particular WO 96/18367 (Clear et al.) and U.S. Patent No. 5,904,673 (Roe et al.), in that whether considered alone or in combination the references fail to show or suggest a combination of at least the following elements of the claim: 1) a disposable absorbent garment in which an absorbent core of the article has a surface area of less than about 50 percent of the surface area of the article, 2) a front edge of the absorbent core being in closer proximity to a front end of the article than the back edge of the absorbent core is to a back end of the article, and 3) at least a portion of the absorbent core being bonded to a stretchable outer cover.

Clear et al. disclose an absorbent article with a fit enhancement system wherein the absorbent article has a longitudinal centerline 100 (Figs. 1 and 2) and a transverse centerline 102 that evenly divides the front and back halves of the article. That is, the front and back edges (52) of the article are equidistant from the transverse centerline 102. A crotch region 48 of the article is centered at the intersection of the longitudinal centerline 100 and the transverse centerline 102. Extending longitudinally outward from the crotch region at one end thereof is a front fit region 45 and at the other end is a rear fit region 47. Longitudinally beyond the front and rear fit regions 45, 47 are respective front and back waist regions 46 and 44.

An absorbent core 28 of the article of Clear et al. is also centered on the transverse centerline 102 and is shown in every embodiment of Clear et al. as being longitudinally equidistant from the longitudinal front and back edges 52 of the article. There is certainly no express disclosure or illustration found anywhere in Clear et al. that the front end

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of the absorbent core is in closer proximity to the front end of the article than the back end of the absorbent core is to the back end of the article.

However, the Office action instead takes the position that Clear et al. inherently disclose such a feature. In particular, the Office's sole basis for its inherency assertion is the disclosure by Clear et al. at page 12, line 15 through page 13, line 16, and in particular the disclosure at page 13 lines 12-15 that the fit panel in the rear fit region 45 of the article may be 1.5 to 2 times the longitudinal length of a fit panel in the front fit region 47 of the article. Thus, the Office's position, as best understood, is that if the rear fit region 45 is longer than the front fit region 47 as disclosed by Clear et al. in the passage cited by the Office, the front end of the absorbent core is necessarily closer to the front end of the article than the back end of the absorbent core is to the back end of the article.

To establish inherency, the prior art "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." In re Robertson, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999); MPEP §2112.

With all due respect, the Office action assumes facts that are not disclosed by Clear et al. Specifically, the Office action assumes that by making the back fit region 45 longer than the front fit region 47, that the back edge of the article is necessarily more distant from the transverse centerline 102 than the distance of the front edge of the article is from the

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transverse centerline. That is, the Office action assumes that the front and back edges of the article are no longer equidistant from the transverse centerline 102.

Nowhere do Clear et al. teach or even suggest that the front and back edges of the article can be spaced different distances from the transverse centerline 102 of the article. Rather, the Office action impermissibly assumes this fact. However, this is but only one possible result of the back fit region 45 being longer than the front fit region 47. In fact, the only evidence of record regarding the positions of the front and back edges 52 of the article of Clear et al. is provided by Figures 1 and 2 thereof. In both embodiments the front and back edges 52 of the article are equidistant from the transverse centerline 102 of the article, and hence the back and front edges of the absorbent core are equidistant from the respective back and front edges of the article.

Thus, it is at least equally possible that the relative lengths of the outer cover, liner and/or the front and back waist regions 34 of the article may be adjusted upon varying the lengths of the front and back fit regions 47, 45 so that the front and back edges of the article remain equidistant from the transverse centerline of the article in accordance with the express teachings of Clear et al. In fact, this is more likely than the possibility advanced in the Office action. For example, the front and back edges of the article of Clear et al. likely need to be equidistant from the transverse centerline 102 of the article so that the fasteners 36 at the front waist region of the article properly align with the fasteners 36 at the back waist region of the article when the article is placed on the wearer.

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In any event, the position advanced by the Office is a mere possibility and there is no factual disclosure found anywhere in Clear et al. that raises such a possibility to a necessary and only result of changing the lengths of the front and back fit regions. Accordingly, it is not necessary, and therefore not inherent, that the front edge of the absorbent core is in closer proximity to the front end of the article than the back edge of the absorbent core is to the back end of the article.

For these reasons, new claim 107 is submitted to be unanticipated by and patentable over Clear et al.

Roe et al. disclose an absorbent article (e.g., a diaper) 20 having a generally "T-shape" comprising a liquid impervious topsheet 24, a liquid impervious backsheet 26, an absorbent core 28 between the topsheet and backsheet and an extensible waist belt 32. However, there is no disclosure or suggestion found anywhere in Roe et al. that the backsheet 26 is stretchable. Moreover, Roe et al. fail to show or suggest that at least a portion of the absorbent core 28 is bonded to a stretchable backsheet 26. Rather, only the waist belt 32 is indicated as being extensible, and the absorbent core 28 of Roe et al. is not bonded to, nor does it even extend within, the waist belt. The passages cited by the Office as disclosing a stretchable liner and/or outer cover are directed only to construction of the waist belt, and not to any portion of the liner/outer cover between which the absorbent core is disposed. Accordingly, Roe et al. fail to disclose or otherwise even suggest that the outer cover is stretchable along substantially its entire length.

For these reasons, claim 107 is also submitted to be unanticipated by and patentable over Roe et al.

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In view of the above, claim 107 is submitted to be unanticipated by and patentable over the references of record.

Claims 83-94, 100-102, 106, and 108 depend directly or indirectly from amended claim 107 and are submitted to be patentable over the references of record for the same reasons as claim 107.

Claim 109

New claim 109 is directed to a disposable absorbent article having a longitudinal axis, a lateral axis, and a lateral centerline generally defining longitudinal front and back regions of the article. The article has a front end and a back end and comprises:

a liner adapted for contiguous relationship with a wearer's body, the liner having a length and a width and being stretchable along substantially the entire length of the liner;
an outer cover in generally opposed relationship with the liner;

the article having a surface area defined at least in part by said liner; and

an absorbent core disposed between the liner and the outer cover and having a front edge, a back edge, and a surface area which is less than about 50% of the surface area of the article, the front edge of the absorbent core being in a closer proximity to the front end of the article than the back edge of the absorbent core is to the back end of the article, at least a portion of the absorbent core being bonded to said liner.

New claim 109 is submitted to be unanticipated by and patentable over the references of record, and in particular Clear et al. and Roe et al. for reasons substantially similar

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to those set forth above with respect to claim 107. That is, whether considered alone or in combination the references fail to show or suggest a disposable absorbent garment in which an absorbent core of the article has a front edge of the absorbent core in closer proximity to a front end of the article than a back edge of the absorbent core is to a back end of the article, and at least a portion of the absorbent core is bonded to a stretchable liner.

New claim 110 depends directly from claim 109 and is submitted to be patentable over the references of record for the same reasons as claim 109.

Claim 111

New claim 111 is directed to a disposable absorbent article having a longitudinal axis, a lateral axis, and a lateral centerline generally defining longitudinal front and back regions of the article. The article has a front end and a back end and comprises:

- a liner adapted for contiguous relationship with a wearer's body;

- an outer cover in generally opposed relationship with the liner, at least one of said liner and said outer cover being stretchable in at least one direction, the article having a surface area defined at least in part by at least one of said liner and said outer cover; and

- an absorbent core disposed between the liner and the outer cover and having a front edge, a back edge, and a surface area which is less than about 50% of the surface area of the article, the front edge of the absorbent core being in a closer

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proximity to the front end of the article than the back edge of the absorbent core is to the back end of the article, said at least one of said liner and said outer cover extending beyond the front and back edges of the absorbent core and being stretchable adjacent said front and back edges.

New claim 111 is submitted to be unanticipated by and patentable over the references of record, and in particular WO 96/18367 (Clear et al.) and U.S. Patent No. 5,904,673 (Roe et al.), in that whether considered alone or in combination the references fail to show or suggest a disposable absorbent garment having an absorbent core disposed between the liner and the outer cover and having a front edge, a back edge, and a surface area which is less than about 50% of the surface area of the article, the front edge of the absorbent core being in a closer proximity to the front end of the article than the back edge of the absorbent core is to the back end of the article, and at least one of the liner and the outer cover extending beyond the front and back edges of the absorbent core and being stretchable adjacent said front and back edges.

Clear et al., as discussed above with respect to new claim 107, fail to explicitly or inherently disclose a front edge of an absorbent core disposed closer in proximity to the front edge of the article than a back edge of the absorbent core is to the back end of the article. Thus, new claim 111 is submitted to be unanticipated by and patentable over Clear et al. for at least the above mentioned reasons.

Roe et al., as also discussed previously, disclose that only the waist belt 32 is extensible, and the absorbent core 28 of Roe et al. is spaced from the waist belt. Thus, Roe et al. do not disclose or even suggest either a stretchable liner or a stretchable outer cover extending beyond the front and back

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edges of the absorbent core, as recited in claim 111. For these reasons, new claim 111 is submitted to be unanticipated by and patentable over Roe et al.


In view of the above, claim 111 is submitted to be unanticipated by and patentable over the references of record.

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CONCLUSION

In view of the above, applicants respectfully request favorable consideration and allowance of claims 83-93, 100-102, 106, and 107-111 as now presented.

Respectfully submitted,



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